

tions and literature, and are strongly discouraged from receiving religious instruction. Over 150 churches have been either desecrated, closed, or destroyed since May 1986. Practitioners continue to be harassed and imprisoned for their faith.

Mr. Speaker, Christianity has endured for a millennium in Ukraine. If we wish to see it continue, we must express our support for those that wish to practice their religion. I urge my colleagues to join with me in voting for House Joint Resolution 429.

Mr. SMITH of New Jersey. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 235

Whereas 1988 marks the Millennium of the Christianity of Kievan Rus', adopted by Prince Volodymyr in a ceremony on the banks of the Dnieper River;

Whereas today freedom of religion is a fundamental right which is explicitly guaranteed by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe;

Whereas the Soviet Government has violated the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe by engaging in the persecution of religious believers in the Soviet Union, including the systematic liquidation of the historic and national churches in Ukraine;

Whereas the Ukrainian Orthodox and Ukrainian Catholic churches, both forcibly liquidated in the 1930's and 1940's, respectively, have remained outlawed while their clergy and laity have been murdered, imprisoned, or exiled for their religious beliefs;

Whereas despite decades of severe persecution, Ukrainian Orthodox and Ukrainian Catholic believers to this day continue to practice their faiths clandestinely for fear of persecution by Soviet authorities;

Whereas the Soviet Government has, in addition, sought to restrain and undermine the spiritual mission of the Evangelical Church in Ukraine, and has established restrictive legislation in direct contravention of the Biblical precepts that undergird the evangelical movement;

Whereas many members of the Ukrainian Evangelical churches, in particular unregistered Baptist and Pentecostal congregations, are currently imprisoned and harassed for their faith;

Whereas suspected clergy and lay members of the Ukrainian Orthodox, Ukrainian Catholic, Baptist, and Pentecostal churches are victimized by job discrimination, their access to religious literature is restricted, and they are subject to various forms of harassment such as house searches, interrogations, and arbitrary arrests by Soviet authorities;

Whereas despite the Soviet government's policies of religious persecution in Ukraine, faith in God is widespread among Ukrainians as evidenced by the underground Ukrainian Catholic movement which embraces hundreds of priests headed by a number of secret bishops assisted by more than 1,000 religious women in orders; and

Whereas Ukrainian Catholic catacomb bishops, priests, and laity have placed themselves in direct danger of persecution by ap-

pealing to the Kremlin to end its prohibition of the Ukrainian Catholic Church: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States deplores the Soviet Government's active persecution of religious believers in Ukraine, as well as the forcible liquidation of the Ukrainian Orthodox and Ukrainian Catholic Churches.

Sec. 2. On the occasion of the Millennium of Christianity in Kievan Rus', the Congress of the United States—

(1) discourages official participation by the Government of the United States in ceremonies of the Millennium in the Union of Soviet Socialist Republics, so long as individuals remain harassed and imprisoned for their religious beliefs, are denied access to religious literature and the opportunity to receive religious instruction, and the Ukrainian Catholic and Ukrainian Orthodox Churches remain outlawed;

(2) sends its greetings to the Ukrainian people as they mark this solemn event in the history of the Ukrainian nation;

(3) voices its concern for those Ukrainian religious believers who are persecuted for attempting to exercise their rights to religious worship;

(4) urges the President of the United States, the Secretary of State, the United States delegation to the United Nations, the United States Delegation to the Vienna Review Meeting of the Conference on Security and Cooperation in Europe to continue to speak out forcefully against violations of religious liberty throughout the Soviet Union and specifically in Ukraine during this anniversary year;

(5) calls upon the Soviet Government to abide by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe, and release all those imprisoned for their religious beliefs; and

(6) urges, in observance of the Christian Millennium, the Soviet Government to legalize the Ukrainian Orthodox and Ukrainian Catholic Churches.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAMILTON. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 235, the Senate joint resolution just passed.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT ON H.R. 5, ELEMENTARY AND SECONDARY EDUCATION

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 427 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 427

Resolved, That upon the adoption of this resolution it shall be in order to consider

the conference report on the bill (H.R. 5) to improve elementary and secondary education, and all points of order against the conference report and against its consideration are hereby waived, and the conference report shall be considered as having been read when called up for consideration. A motion to recommit the conference report may not contain instructions.

Sec. 2. At any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of a bill containing the text printed in section three of this resolution, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed thirty minutes, equally divided and controlled by a proponent and an opponent, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill, the Committee shall rise and report the bill to the House, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to commit, which may not contain instructions.

Sec. 3. The text of the bill as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

"Section 223(b) of the Communications Act of 1934 is amended—

"(1) in paragraph (1)(A), by striking out 'under eighteen years of age or to any other person without that person's consent';

"(2) by striking out paragraph (2);

"(3) in paragraph (4), by striking out 'paragraphs (1) and (3)' and inserting in lieu thereof 'paragraphs (1) and (2)'; and

"(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively."

The SPEAKER. The gentleman from Texas [Mr. FROST] is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentleman from Mississippi [Mr. LOTT], pending which I yield myself such time as I may consume.

(Mr. FROST asked and was given permission to revise and extend his remarks.)

Mr. FROST. Mr. Speaker, House Resolution 427 is a rule waiving all points of order against the conference report on H.R. 5, the School Improvement Act of 1987, and waiving all points of order against its consideration. The rule provides that the conference report shall be considered as having been read when called up for consideration and that a motion to recommit the conference report may not contain instructions.

Mr. Speaker, the conference agreement on H.R. 5, named the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, is the result of months of work on the part of both the House and the Senate and both the majority and the minority. Its provisions reauthorize almost every Federal elementary and secondary

education program and enjoy wide bipartisan support. The conference agreement contains new programs designed to improve educational opportunities for all children, but the agreement focuses especially on those children who have the greatest needs and encourages greater parent participation and involvement. Mr. Speaker, the provisions of this conference agreement will, in the coming years, assist our schools in providing the best educational opportunities possible for our Nation's schoolchildren.

However, Mr. Speaker, the conference agreement does contain a provision which is a matter of some controversy and because of that controversy, the House earlier today took action directly relating to it. As Members know, a bill was added to those bills originally scheduled to be considered today under suspension of the rules. H.R. 4401 contained the text of a Senate amendment to H.R. 5 which, like a measure introduced in the House by our colleague, the gentleman from Virginia (Mr. BILLEY), prohibits the interstate transmission of obscene and indecent communications by means of telephone for commercial purposes.

As Members will recall, on March 1 the House agreed to a motion to instruct conferees on H.R. 5 offered by the gentleman from California (Mr. DANNEMEYER). That motion instructed the House conferees to agree to section 7003 of the Senate amendment to the House-passed bill. Section 7003, of course, contained the same text as the Billey bill and was offered by Senator HELMS. However, since the conference reported back language which provides that telephone companies must, to the full extent technically feasible, provide "dial-a-porn" services only to those telephone subscribers who specifically request access to such services, a number of Members feel that the House should be afforded the opportunity to consider an amendment to the conference agreement which would substitute the Helms-Billey language for the language reported from the conference.

Yesterday, when the Committee on Rules met to consider the rule for the conference report on H.R. 5, the committee reported a rule which recommended a procedure by which the House could take a direct up or down vote on the Helms-Billey language as freestanding legislation. Section 2 of House Resolution 427 provides that at any time after the adoption of the rule, the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole for the consideration of a bill printed in section 3 of the resolution. Section 3 contains the text of the Helms-Billey dial-a-porn language.

While the Committee on Rules recognized that a great many Members feel very strongly that the only way to deal with dial-a-porn is to eliminate it entirely, the committee recommended the procedure in section 2 of the reso-

lution to preserve the regular order in the House. As Members know, the normal procedure for the consideration of conference reports in the House does not permit the consideration of amendments to a conference agreement. For that reason, the Committee on Rules provided for the separate consideration of the Helms-Billey language as incorporated in section 7003 of the Senate amendment to H.R. 5.

However, since the House has just passed this legislation by suspension of the rules, the provisions of section 2 of the resolution are no longer necessary. It is also my understanding that the House leadership is negotiating an agreement with the leadership of the Senate to bring this bill up for consideration at the earliest possible time. While a number of my colleagues may believe that the resolution now before us will preclude the Congress from sending legislation to the President's desk which would end the spread of dial-a-porn, I suggest, Mr. Speaker, that this rule is fair, and should be adopted. Because the House has passed H.R. 4401, freestanding legislation has been sent to the Senate for its consideration and the matter at hand is, and should be, the conference report on the authorization of Federal elementary and secondary education programs.

For that reason, Mr. Speaker, I urge my colleagues to support the previous question and the rule. Arguments may be made during the debate on this rule that inclusion of the Helms-Billey dial-a-porn language in the conference report is the only way to ensure that this legislation will reach the President's desk. I must disagree with that assessment and urge my colleagues, especially those who are parents like myself, to support this rule so that education programs may be reauthorized.

□ 1550

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LOTT asked and was given permission to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, House Resolution 427 provides for the consideration of the conference report on the bill H.R. 5, the School Improvement Act. The rule waives all points of order against the conference report and its consideration and prohibits instructions on a motion to recommit.

The rule also provides for consideration at any time of a bill which is identical to the one we just passed under suspension of the rules under a sudden change in scheduling. I think this is the first time I can recall in which we passed a bill before adopting the rule making it in order. I think it says something about the extent of the leadership's concern that Congress might actually enact a meaningful dial-a-porn provision as part of the conference report. We still should.

Mr. Speaker, it goes without saying that this is a highly unusual rule. It was obviously hammered-out in some Democratic leadership committee. If a camel is a horse designed by a committee, then the Democratic leadership has given us a camel with two humps.

Only in this case, the humps have been placed on the opposite sides of the camel, with one pointing east, and the other pointing west. The reason for this strange beast is the Democratic leadership's unwillingness to allow the Congress to enact a dial-a-porn ban as part of this conference report.

Despite the fact that the Senate previously voted 98 to 0 for such a ban, and the House voted 274 to 17 to instruct its conferees to accept the Senate language, the conferees came back with a new dial-a-porn subscription service that most 10-year-olds could find a way to tap-in to.

When this matter came to the Rules Committee, I offered an amendment to the rule that would permit us to vote on the competing alternatives—the dial-a-porn ban versus the new phone-porn subscription service, as part of the conference report. My amendment initially carried on a 6-to-5 vote. But, before the rule was finally adopted, the majority recessed the meeting for 10 minutes. Those 10-minutes mysteriously stretched into 5 days.

At 10:30 a.m. on Monday, the Rules Committee rubber-stamped this freak camel, thus reversing my amendment that would have permitted the issue to be settled in the context of the conference report, as it should be.

What's wrong with this two-step process? Quite simply, you will be asked to vote on two different approaches to the dial-a-porn problem, without having to choose between them. The new dial-a-porn subscription service approach will be buried in the single vote on the education conference report. And, the separate dial-a-porn ban bill just passed under suspension is a cruel hoax. While you might think you are covering all the bases politically, the fact is you will be riding a mutant camel that's not going anywhere. Why isn't this camel going anywhere? Because that's how it was designed by the leadership. They know darn well that the separate dial-a-porn ban bill just passed won't make it through the other body. This is their way of killing it without leaving their fingerprints on the murder weapon.

Mr. Speaker, if my colleagues think for 1 minute that the American people will be hood-winked by a meaningless vote on a bill that is destined for oblivion, they've got another thing coming. The American people don't want meaningless gestures and votes that don't do the job. They want us to enact a flat ban on these teleporn services.

The only way to get this enacted law is to reinsert the dial-a-porn ban in the

conference report. And the only way to achieve that is to change this rule to permit a vote on substituting the pornography ban for the porno subscription service. That's what I offered in the Rules Committee and that's what was initially adopted on a 6-to-5 vote before the leadership sent in their ridiculous camel.

I am therefore asking my colleagues to defeat the previous question so that I can offer this substitute rule that will put the dial-a-porn ban issue back in the debate on the conference report. Under my substitute rule, it would be permitted, pursuant to the provisions of clause 4 of rule XXVIII, to raise a point of order against the existing dial-a-porn subscription service on grounds that it is nongermane to the original House bill. Under that House rule, if the point of order is sustained, it would then be in order to offer a motion to reject that provision. The motion is subject to 40 minutes of debate.

If the section is then rejected, the conference report is technically considered to be defeated. However, it would then be in order under my rule and House Rule XXVIII, to take up the original House bill, H.R. 5, with the Senate amendment, and move to recede and concur in the Senate amendment with an amendment. That amendment would be the nonrejected part of the conference report together with the original Senate dial-a-porn ban language.

My colleagues should make no mistake about the significance of this previous question vote. This is the real test of whether you want to have a dial-a-porn ban enacted. Only by the procedure prescribed in my substitute rule is such a ban likely to make it to the President's desk. A "no" vote on the previous question means you want the dial-a-porn ban to be included in this conference report, and not be shunted-off to some form of limbo in the other body. A "no" vote on the previous question means you want to put this issue on a swift horse and fast track to the White House, and not on a slow camel to nowhere.

Mr. Speaker, let me conclude by pointing out that since the House has already passed the separate dial-a-porn ban bill under suspension, half of the reported rule is irrelevant. What is relevant at this point is that the House has now twice overwhelmingly expressed its support for a ban. The time has come to put that ban and that overwhelming sentiment into a measure we know will be enacted. We've made our gestures. Now let's make law. Vote down the previous question.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am glad to yield to the gentleman from Pennsylvania.

Mr. WALKER. Mr. Speaker, I am sure the gentleman from Mississippi has been contacted by numerous individuals from his district and from

across the country who are concerned about this issue. Am I correct to say that those individuals who have had a direct concern on this issue are going to regard the vote on the previous question as being the key vote in dial-a-porn here today?

Mr. LOTT. The gentleman is absolutely correct. In fact, I have before me a list of 12 or 15 organizations of different denominations, religious organizations, family groups that are making it clear that they understand this vote and they say that they support a ban on dial-a-porn. "Vote no on the previous question." So yes, they understand what is going on here.

Mr. Speaker, I yield 4 minutes to the gentleman from Virginia [Mr. BLILEY].

(Mr. BLILEY asked and was given permission to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, I rise in strong opposition to the rule before us today. I oppose this rule because it represents just one more attempt to sidestep the issue of dial-a-porn through clever procedural gimmicks. It's precisely this type of gimmickry that has put us in the situation we're in today.

Five years ago, I began the crusade against dial-a-porn when I sought to have this type of service banned from our Nation's telephone system through an amendment to the FCC authorization bill. Unfortunately, the amendment was altered in a manner that, for the first time, legalized commercial obscenity over the phone lines. A vote for this rule is—in essence—a vote to maintain the only place in the entire United States Code where commercial obscenity is given legal protection.

That is precisely the thrust of the language that is included in the conference report—language that was included in the conference report without the conferees on that issue ever having met in open public session as required by rule 28 clause 6.

Let's look for a moment at the proposed conference language. Will it be effective? No; the FCC, as the expert agency in the field of telecommunications, has provided us with an analysis of the conference language. They say it won't work. What effect will it have on live, obscene sex services that are billed through personal credit cards? Absolutely none. What effect will it have on dial-a-porn services where the phone company provides billing information to the dial-a-porn vendors, but doesn't do the billing itself? Absolutely none. What about rural areas where digital switching technology is not available and phone companies do not have the ability to block customer phones? No effect. What about pay phones? No effect. What new burdens or obligations does the conference report language place on dial-a-porn vendors? None. It doesn't impose one new burden on the providers of this smut. In fact, it actually makes it easier for them to challenge phone

company efforts to terminate their services.

We will hear arguments that we can have both subscription and a ban on dial-a-porn if we adopt this rule. That simply isn't the case. If we adopt the conference language and adopt the Helms-Bliley language at some later date, we will create the absurd situation of telling phone companies that if it is technically feasible they must connect subscriber telephones to illegal services upon request of. That would be like saying it's illegal to sell drugs unless you go down to 14th and K Streets and sell them to people who ask for them—I doubt there is a Member in this House who would suggest that such an approach would represent sound policy.

As the gentleman from Mississippi [Mr. LOTT] has said, if you are against dial-a-porn, if you believe dial-a-porn should be illegal—then you will vote against the previous question and permit the House to follow through on the instructions it gave its conferees on March 1 to agree to the Helms-Bliley amendment as part of this important education bill.

Mr. Speaker, decency and religious organizations see this rule for the charade it is—that's why Citizens for Decency Through Law, Mortality in Media, the U.S. Catholic Conference, the National Coalition Against Pornography, the Religious Alliance Against Pornography, the Knights of Columbus, and the American Family Association—all support our efforts to defeat this rule.

As Citizens for Decency Through Law have noted in their letter to Members of Congress, and I quote,

A "no" vote on the previous question is a vote for the Helms-Bliley amendment which will put an end to dial-a-porn. A "no" vote is a profamily, antiobscenity vote. We consider a "yes" vote a pro-obscenity vote because it will create the same type of legal confusion that has existed for the past 5 years and which has prevented any effective action against dial-a-porn.

I urge my colleagues to join us in putting an end to dial-a-porn. Support the Telephone Decency Act and the Helms-Bliley amendment by voting "no" on the previous question.

□ 1605

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Michigan [Mr. DINGELL].

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, the House has had an opportunity to vote on the bill sponsored by the distinguished gentleman from Virginia which is essentially the Helms bill from the Senate. The House has passed it. There is good reason to believe that that proposal is of doubtful constitutionality. The U.S. attorney from Utah, speaking before the Committee on Energy and Commerce, in

response to a question asked by the gentleman from Virginia [Mr. BULLEY] as to the constitutionality of this package, had this to say:

I think the likelihood is that it would be unconstitutionally overbroad under my reading of the cases. That has been the department's position since this issue came up in 1984 and it continues to be our position.

The position was that the package that was offered earlier is unconstitutional.

The general counsel of the FCC said, in response to a similar question, that the bill just passed would be subject to a swift and unfavorable constitutional response by the courts.

Now the issue before the House at this moment is not whether or not you are in favor of dial-a-porn. The question is do you want to have two mechanisms to attack this most questionable and most immoral practice.

The bill passed deals with the problem through proscribing speech in a fashion which is probably open to serious constitutional challenge. Indeed, there is good reason to believe that the bill that was just passed is not going to be found constitutional and will not be so held by the courts.

The issue before us now is are we going to have a second technological approach which is accepted by the telephone companies and which will assure that only persons desiring this kind of service can get it.

This will assure that those who do not want it will not be plagued by having this kind of filth coming into their homes and will not be bothered unless they choose to subscribe to it.

If you really want to protect the children of this Nation and if you want to see to it that a citizen is not plagued with this kind of filth entering their homes then vote for the previous question, vote for the conference report and let us move forward.

The Senate majority leader in response to a call from the Speaker of the House today has indicated the following: First, he favors the Helms bill as just passed by the House, H.R. 4401; second, he will program it as quickly as possible; and third, he will do everything he can to see to it that the Senate acts favorably upon the House passed legislation which we have just passed under the suspension of the rules.

That effectively says to us today that if you are really sincere about dealing with the problem of pornography entering the homes of the people of this Nation by telephone you should take both courses. If you really want to deny this kind of offensive matter access to the homes of the American people and to the ears of our innocent children then what should be done is, at this moment, to vote "aye" on the previous question and "aye" on the conference report.

The issue is not one which should wait while the question of constitutionality is determined. If you really want to see to it that the young people

of this country are protected against this kind of filth, vote "aye" on the previous question and "aye" on the rule.

That will give a technological approach to this matter in which the flow of this matter into American homes can only come on the basis of a specific request of the telephone subscriber and we will not become dependent solely upon whether or not a proposal of the kind of doubtful constitutionality that one could observe in the Helms provision which was just passed by the House is the only device which affords protection to our people.

When the Senate sent H.R. 5 back to the House with a nongermane dial-a-porn amendment, I refused to let the House ignore the issue any longer. I was determined to provide Members with an opportunity to address this problem, and joined in a bipartisan, cooperative effort to craft a constitutional solution during the conference on H.R. 5.

Members should know that the transmission of dial-a-porn to children is already prohibited by law, and that, under FCC regulations, vendors of these services must take certain precautions such as the use of credit cards, scrambling devices, and access codes to ensure that children are not exposed to this material.

Our task in the conference on H.R. 5 was to find practical mechanisms that would strengthen current law and regulation to provide children with even more protection from exposure to this harmful material.

Mr. BULLEY and Mr. MARKEY and I attempted to reach an accommodation on this contentious issue through a presubscription approach.

Our initial effort required universal presubscription for all dial-it services, whether pornographic or not. This approach proved to be economically infeasible and was opposed by the entire telephone industry and by the legitimate information providers who furnish the public with services such as dial-a-sports score, ski condition reports, and the like.

We were then hopeful that we could craft an alternative presubscription approach which would not hamper the emerging information industry.

Despite our good faith reports, and the hard work with numerous outside parties including telephone companies, decency groups, parents groups, civil liberties groups, and information providers; and despite several meetings of the House conferees themselves, the conferees were unable to craft an alternative presubscription approach acceptable to our minority colleagues.

I am sincerely sorry that we have been unable to reach agreement on this issue, and that we now find ourselves at odds at the end of a long process of negotiation.

The conference adopted an approach that would require telephone companies to block all access to dial-a-porn services unless customers specifically requested access to those services. This presubscription approach would put control over access to pornographic material back into the hands of parents—who need do nothing to be assured that children will not be able to use their telephones to reach pornographic material.

I stress that this measure is in addition to all requirements of current law and regulation.

Some have claimed that under the conference report, the obligation to restrict access to dial-a-porn ceases to bind telephone companies when dial-a-porn vendors lie or fail to disclose the nature of their services.

That is simply not so.

The conference report does provide that telephone companies are immune from damage claims if they rely in good faith on the representations of dial-a-porn vendors, but,

First. The obligation to restrict access does not depend on the truthfulness of dial-a-porn purveyors.

Second. Telephone companies are still subject to enforcement actions by courts or regulatory agencies if they fail to restrict access to dial-a-porn.

Third. If telephone companies ignore complaints or other information about the nature of services provided by a particular vendor, they are not acting in good faith and are subject to damage claims in addition to enforcement actions.

Some have claimed that the conference report measure on dial-a-porn diminishes the telephone companies' incentive to cut off dial-a-porn. That, too, is false.

Some telephone companies such as Bell South do not knowingly permit dial-a-porn on their networks.

However, under current law, telephone companies have no legal liability for carrying dial-a-porn and no legal advantage in choosing not to carry this material. Their motivation in cutting off dial-a-porn is to avoid damage to their good name and reputation—not to avoid legal liability.

The conference report creates a legal obligation to restrict access to dial-a-porn and creates a legal liability for unauthorized access.

Telephone companies must act in good faith to restrict access to dial-a-porn, and are subject to enforcement actions and even court suits for damages if they fail to act in good faith.

By establishing these new obligations for carrying dial-a-porn, the conference report increases the likelihood that telephone companies will cut off dial-a-porn. As the statement of managers explicitly notes, one way telephone companies can avoid being in violation of these new requirements is to refuse to carry dial-a-porn.

Some have also claimed that this report would preempt State and local protections against dial-a-porn.

That claim is also false.

The statement of managers specifically notes that nothing in the relevant section of the bill shall be construed to preempt any State or local laws which prohibit the transmission or obscene or indecent communications for commercial purposes.

The National Parents Teachers Association states that it supports this measure unequivocally. Six of the seven regional Bell operating companies, AT&T, GTE, and United Telephone state that the measure is technically feasible, can be implemented, and is acceptable. The Information Industry Association states that this measure will not harm their industry. The Office of Communications of the United Church of Christ and the National Council of Churches support this approach as

preferable to an approach of dubious constitutionality that would ban dial-a-porn services.

Many Members would like to ban dial-a-porn as called for in the Helms amendment. I wish such a straightforward approach would really solve the problem. But I do not believe that the Helms "Ban dial-a-porn" approach—by itself—would be effective.

The Department of Justice, the American Civil Liberties Union, and the Federal Communications Commission all agree that it will not withstand constitutional challenge. It will almost certainly be enjoined immediately and prevented from going into effect until the litigation is over.

In the meantime, nothing would be done to protect our children. Indeed, the protective measures currently on the books would be stripped away.

Moreover, the Helms ban applies only to interstate dial-a-porn, in contrast to the pre-subscription approach which applies within each State.

The rule governing consideration of H.R. 5 allows Members to treat the Helms approach and the presubscription approach as parts of an interlocking solution to the dial-a-porn problem. Members wishing to vote to ban dial-a-porn have had an opportunity to do so. Now, they should vote to provide a workable second line of defense in case Helms is ruled unconstitutional.

Once passed, the two provisions can work together. If the Helms amendment is found to be constitutional, then dial-a-porn would not be allowed on the telephone network. If Helms is found to be unconstitutional, however, then the presubscription requirement comes into force, providing effective constitutional protection against dial-a-porn.

I urge my colleagues to support this rule.

A vote against the rule is a vote to kill the presubscription approach.

In the likely event that the Helms approach is stayed or declared unconstitutional, children will be deprived of all protection from dial-a-porn, unless we act now to establish a technological safety net.

H.R. 5 contains this safety net.

Even if you prefer the Helms approach, why deprive the Nation's children of an extra measure of protection?

I urge you to support the rule on H.R. 5.

Let me add a comment on the obligations of telephone companies to verify a request for access to dial-a-porn.

Telephone companies must obtain a written request from adult subscribers before permitting access to dial-a-porn services, and must make good faith efforts to verify that these requests are in fact from the responsible subscriber rather than from a minor.

Telephone companies normal processes require some verification that special service has in fact been requested. For instance, requests for special services of this type would normally be part of the billing process and so would be accessible only to the adult subscriber himself.

The conferees also expect that telephone companies will notify the subscriber in writing that his telephone can be used to access dial-a-porn services.

Under the conference report, telephone companies will take extra precautions to ensure that all requests for access to dial-a-porn are legitimate because if they cannot demonstrate that they took good faith steps to

keep dial-a-porn out the homes of those adult subscribers who have not requested access, they are liable to court suits including suits for damages.

Finally, any unauthorized access will not last past the next telephone billing period. Parents will detect any actual use of their telephone for access to dial-a-porn almost immediately because the bill for this use will show up on the subscriber's monthly bills.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

(Mr. DANNEMEYER asked and was given permission to revise and extend his remarks.)

Mr. DANNEMEYER. I thank the gentleman for yielding.

Mr. Speaker, I think it would be appropriate for all of us to just understand where we are on this issue. Actually, there is a law in place right now, it has been there since March 1983 at the time when dial-a-porn first became available. It is 47 U.S.C. 223.

That clearly says whoever in interstate or foreign communications by means of a telephone makes any comment, requests, suggestion or proposal which is obscene, lewd, lascivious, filthy, or indecent shall be fined and so on.

Unfortunately, the Department of Justice and the FCC have interpreted that ban to mean that it only pertains to the person who picks up the phone and makes the statement themselves. It does not reach the recording that comes across in dial-a-porn.

This Member does not believe that is a rational interpretation, but that is what the people in the Department of Justice have interpreted it to mean.

So as a result, Congress has been frustrated in banning dial-a-porn.

In 1983 we added some language which we thought would resolve the matter: We said, "Ban it for persons under 18 years of age." The problem is the difficulty of restricting the availability to kids in that age group. So we are back to square one.

If we truly want to ban dial-a-porn, the proper vote is to vote to defeat the previous question so that a rule can be offered whereby we will substitute the prohibitory language of the ban in place of the language of continued availability of dial-a-porn which is part of the conference report of H.R. 5.

Now one of the previous speakers, Mr. DINGELL, observed that the language in the conference report would restrict dial-a-porn as much as we can. This is the language of the conference report. I respect that point of view.

But the point of the matter is that whether the language of the conference report or the ban is adopted, within a week's time I would estimate the pronography industry in America is going to file a suit in some Federal court in this country and seek a temporary restraining order to prevent the imposition of whichever version is passed because there are powerful interests that are making a lot of money in this business who want to continue

to have this trash available to the kids of our country, indeed all of the people of our country.

So I would suggest that a rational course for us to take is not to put out a ridiculous work product which on the one hand says that we are going to permit the availability of dial-a-porn; on the other hand on the same day pass a law that says we are going to prohibit it. That makes no sense.

We should be replacing the permissive continued availability which is a part of the conference report, with the prohibitory language.

Then we cut out the charade of giving a fig leaf that we have done something and in place substitute the language that in fact we have banned it totally.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 5 minutes to the gentleman from Massachusetts [Mr. MARKEY].

Mr. MARKEY. I thank the gentleman very much.

Mr. Speaker, I would like to take this time to inform the Members as to what this debate is all about. The vote which has immediately preceded this debate which passed out the Helms language which is a total ban on obscene and indecent speech, is a piece of legislation which may or may not be constitutional.

Now there is great reason to believe that it is unconstitutional. Ed Meese's Justice Department testified before the Telecommunications Subcommittee that they believe it is unconstitutional.

The Federal Communications Commission testified before us that it is unconstitutional. The second circuit court has ruled that a ban on indecent speech is unconstitutional.

So as a result what we are offering here today, not in substitution for, but in addition to the language which has already been voted upon earlier today, language which serves as an insurance policy, it serves as a safety net in the event that Ed Meese, the FCC, the second court is, in fact, correct in their reading in the Helms language as it has been voted upon by the House of Representatives.

What we put into place is a ban on obscene language coming into the home but it is a technological fix. It puts control in the hands of the parents of our country. If they do not want this to come into their homes they will not have it in their homes. It will be blocked by telephone companies across this country.

In the absence of an affirmative request of any family in this country it will not be in the homes of this country.

Now we offer some additional protections in this legislation. We deal, in our language, with intrastate delivery of this service. Ninety percent of this traffic is intrastate. The bill which we passed earlier deals with interstate. Our language covers the additional

problem and in fact the greater problem of intrastate communication of this language as well.

Now just so we can clarify this issue so that we are not characterizing this as being one in which groups support one position and do not support the other. The National PTA endorses the provision which we have included in H.R. 5. The United Churches of Christ endorse our provision. The National Council of Churches in Christ endorse our provision. The telephone companies find our provision to be the acceptable and workable answer to this question to insure that that technological fix is put in place.

Now although we do have and have raised the serious constitutional questions to the earlier provision which has been voted upon, we have great sympathy for the intention which underlies the framing of that earlier piece of legislation.

□ 1620

However, if in fact that piece of legislation is ruled to be unconstitutional, we want to insure that parents in this country still can protect their children for that year or years that it might take to in fact come back and to pass additional legislation which would look very much like this back-up piece of legislation we are passing right now.

So to make it clear, your language dominates. If it is ruled constitutional, that is fine, because the parents of this country will be protected, but if it is Ed Meese and the FCC and the second circuit court have indicated it is unconstitutional, we offer this second line of defense, which also keeps it out of the home, but does it in a fashion that will withstand constitutional muster.

There should be a vote for the previous question. The work of our staff, Howard Homanoff and Mark McCarthy at the majority level has been exemplary. They have worked in cooperation with the minority.

We hope that the previous question is agreed to.

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

So that I may make just a couple observations, first of all, when is something unconstitutional? It is not unconstitutional until the Supreme Court says it is unconstitutional.

This body has never been particularly deterred by that argument before, but we felt strongly on an issue, like we obviously feel strongly about this issue, or at least that is the way we vote. We have not let the threat of maybe there being some unconstitutional ruling by the Supreme Court to deter us.

And listen to this. The second circuit has said that a ban on indecent speech is unconstitutional.

I mean, do we want to be on the side of indecent speech? What kind of threat is that? That is still the circuit court, not the Supreme Court.

As far as this being a technological ban, I understand technologically it may not even be possible to ban this dial-a-porn activity, particularly in rural areas.

Just remember this: This language in this conference report as it stands now does allow dial-a-porn, perhaps by description, but there is no question it does allow dial-a-porn.

Also, as I understand it, the courts quite often look at the last bill passed by the Congress or the last law enacted as to what our real feelings are, and I suspect that the last bill passed on this subject may be the one we are fixing to vote on unless we change it and make it clear that we are absolutely opposed to dial-a-porn, there may be confusion on the part of the court, and they would rule, well, maybe even the Congress did not really mean it when we said we were opposed to dial-a-porn.

Mr. Speaker, I yield 5 minutes to the gentleman from Indiana [Mr. COATS].

(Mr. COATS asked and was given permission to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, I was one of those Members that stood here on the floor not too long ago arguing on behalf of the instruction to the conferees that would find a technological solution, the instruction to them to go and find a technological solution that would meet constitutional muster in dealing with this dial-a-porn problem. I did so because I thought that if we could do that we could avoid, potentially avoid a Supreme Court fight.

When I looked at the result that came back from that conference, I was convinced that we should reject that solution, because it was inadequate to deal with the problem and that we should send one unified, unanimous signal from Congress indicating where we stood on this particular issue.

No, we have had several votes in just the last few weeks on where this Congress stands, and it is unequivocally clear to me and it should be to everyone that the vast majority of the Members of this House of Representatives is opposed to dial-a-porn. The question then is: How do we get rid of it?

If we could have come up with a technological solution to deal with the problem that removed the dial-a-porn from access to minors, then I would have supported it. But let me cite for Members who are listening to some of the reasons why this so-called compromise solution, the "let's-fix-it-technologically" solution does not work.

First of all, under this approach, obscenity is not banned. The Supreme Court has ruled many times, as we all know, that obscenity is not entitled to first amendment protection, and that indecency can be regulated to prevent access by children, but under the proposal before us today, the obscene and indecent messages over the telephone will be continued to be permitted.

Second, the proposed amendment will not solve the problem for interstate telephone calls. Interstate access to local 976 services or to long-distance 900 services will be allowed to continue.

The ability to selectively unblock 976 services everywhere at a customer's request is not possible.

Thus, the proposed House amendment will not guarantee the immediate use of selected interstate blocking, and dial-a-porn will still be available on an interstate basis.

Third, the proposed amendment before us obliges the telephone companies to block only if it is technologically feasible. If blocking is not technologically feasible, the telephone company is under no obligation to block dial-a-porn at all.

Further, the amendment would inevitably give a rise to disputes over what is feasible, who should decide what is feasible, et cetera.

Fourth, the proposed amendment authorizes the telephone companies to block dial-a-porn services only if the telephone company does not provide billing and collection services. However, telephone companies which continue to carry dial-a-porn services but do not provide the billing and collection, thus, under this proposal any telephone company that does not offer billing and collection services would be exempted entirely from the requirement to block dial-a-porn and could continue to carry it.

Finally, the proposal gives the telephone company the ability to discriminate among messages on the basis of content.

If we wish to explore content-based solutions that discriminate against dial-a-porn messages, we should be exploring approaches that would result in the banning of messages which are outside first amendment protection.

The House's original instruction was to solve the problem, not to adopt a solution which is a proposed technical fix but creates additional problems.

I think the clear message from this House of Representatives ought to be that we do not want dial-a-porn offered on our telephone services in this country. We have not been able to come up with a technological solution which guarantees our young people will not have access to this and, in fact, as I have just indicated, there are many loopholes in the so-called technological fix.

Let us send an unequivocal, clear, united message, and let us send it quickly. Each day that we delay, each day that we attempt to find a technological solution, hundreds, if not thousands, of children are getting access to these numbers, are calling up and receiving these messages which leave an indelible impression on their minds, many for their life.

As ranking member of the Children, Youth and Family Committee, we

have seen some of the devastating impacts on children.

I urge the Members to send a clear, unmistakable voice out of the House of Representatives: No more dial-a-porn.

Vote down the previous question.

Mr. FROST. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. HAWKINS] the distinguished chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Speaker, I thank the gentleman for yielding me this time.

May I inquire of the gentleman, first of all, what happens if the previous question is voted down and the efforts of those who are offering the anti-pornography amendment in the form of a bill is inserted into the conference agreement? What becomes of the conference agreement?

Mr. FROST. Mr. Speaker, if the gentleman will yield, it is my understanding from the procedure as described by the gentleman from Mississippi [Mr. LOTT] the spokesman for the minority, that it is their intent to follow a procedure which will result in rejection of the conference report, and then the conference report will be brought up as a new piece of legislation.

Mr. HAWKINS. Would that, in effect, nullify the conference agreement, and would it be necessary then for those of us who support H.R. 5 to begin the process of dealing with a new bill on the other side?

Mr. FROST. It is my understanding, again, of the procedure as described by Mr. LOTT that the legislation would be brought up as a new piece of legislation, if it were passed by this body, and sent to the Senate. Then it could be opened up by the Senate for additional amendment at that time.

Mr. HAWKINS. Well then, I thank the gentleman for the answer.

Mr. Speaker, I must then rise in support of education. It seems to me that we have a conflict of two national issues, one, the issue of pornography, and I think that there is general agreement of all of us to do something about it.

On the other hand, there are some of us who are committed to dealing with the issue of education, and if there is one issue in this Nation that is No. 1 in priority, it certainly is education.

Now, I know that some of us have worked on an educational bill, and that has gone on for 2 years. I wonder where were those who were concerned about pornography while some of us were trying to deal with the education of our children. If they are so dedicated to doing something, fighting pornography, then why not do it independent of education? Why should we in a sense submerge education in what I have been listening to for several hours today, and no one has mentioned anything about the education of our children?

Now, we have worked out in the conference agreement an excellent bill, a bill which passed this House 401 to 1 and one which passed the other body with only 1 opposing vote.

It will be very difficult for us to go back and reopen that conference and to deal with amendments that have not been before this body. I think those of us who are sincerely concerned with the education of our children should think twice before they vote against the rule.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding this time.

Let me put the mind of the gentleman from California at rest on this particular issue. The gentleman does not have to fear this question. All the Senate will have to do under the procedures as outlined by the gentleman from Mississippi [Mr. LOTT] is to accept the anti-dial-a-porn amendment which they have already voted for 98 to nothing and there would be no need to revisit any other issue, so we would follow the precise procedure that is indicated under the rules that are followed in these kinds of cases.

So the bottom line is that the Senate would simply accept the anti-dial-a-porn language and we would move on from there.

I might also talk about the situation the gentleman from Michigan [Mr. DINGELL] talked about. He said that they have checked with the Senate and they said that this particular bill was going to come up right away over there, that the majority leader had assured them of that.

I must say that last week when we were arguing about doing something about drug runners and we got the same kind of assurance from the Senate, then at that point people on that side of the aisle were arguing, well, that was not good enough for us. We ought to go ahead and vote down doing something about the drug runners.

I have also been interested in the debate here that suggests that we always intended to have a two-track approach on this. I do not think that is really the case. I think really what we ended up with was a situation where the majority all of a sudden found themselves without the votes when it came to the previous question and all of a sudden we have created the two-track approach on the floor that assures that we get votes. If we had not gone after the previous question, it is my guess that they would have been perfectly willing to accept the technological approach and never have gone with the idea that we would have a flat-out ban on dial-a-porn, despite the fact that the House instructions have told them time and time again that that is what we wanted.

So the only issue now before us is how to deal with that.

The other issue that we have had before us is the Constitution. How much we are going to be faithful to the Constitution in this vote. Well, I would suggest to Members who have brought that up, it seems to me that I remember some of you voting for the War Powers Act where everybody at that point suggested that it was of doubtful constitutionality. There are still many questions about it, but that was important enough that we simply did away with that.

When it came to the independent counsel issue recently, we have had issues about the independent counsel, but that was not important enough for us to set aside because there were constitutional questions, and even the legislative veto which I think was one of those items that was before the committee some years ago and the Commerce Committee at that point decided that the legislative veto was more important than any constitutional questions and they eventually had the whole thing thrown out by the Supreme Court.

When it comes to some of those kinds of questions, we somehow ignore the Constitution, but when it comes to pornography, by golly, on pornography then we ought to get out here and defend the Constitution's ability to protect pornography.

Well, I would suggest this is the real question. It is the fundamental question here and it is the question of whether are you for protecting dial-a-porn. If you are for protecting dial-a-porn, you will vote yes on the previous question.

□ 1635

Mr. FROST. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I would like to inquire of the gentleman from Mississippi [Mr. LOTT] at this time, because of the statements of the preceding speaker in order to make sure that I stated correctly the response to the gentleman from California's [Mr. HAWKINS] question.

I believe I understood the gentleman from Mississippi [Mr. LOTT] to say that if the previous question is defeated, that he would follow a procedure that would result in the rejection of the conference report. Is that a correct understanding?

Mr. LOTT. Mr. Speaker, I apologize. Would the gentleman from Texas please repeat the question?

Mr. FROST. The question deals with comments made by the gentleman from California [Mr. HAWKINS]. I want to be sure the question that the gentleman from California propounded to me, I want to be sure I correctly stated what would be the effect of your procedure. It is my understanding from your remarks earlier that if the previous question is defeated that your intention would be to follow a procedure that would lead to the rejection of the conference report.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. FROST. I am happy to yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, the way this process would work is if the previous question is defeated, we would then make a point of order, we would be able to make a point of order against the language in the conference report. There would then be a vote on the dial-a-porn conference report language. If that is rejected, technically the conference report would be rejected, but then we would offer for another vote the conference report with the dial-a-porn language.

Mr. FROST. As a new matter?

Mr. LOTT. As a new matter. That would then go back to the Senate for approval, and they have already given that approval previously by a vote of 98-0.

Mr. FROST. I just wanted to make sure, because the gentleman from Pennsylvania [Mr. WALKER] raised this question, that this would be a rejection of the conference report.

Mr. HAWKINS. Mr. Speaker, will the gentleman yield?

Mr. FROST. I am happy to yield to the gentleman from California.

Mr. HAWKINS. Mr. Speaker, would this open up the conference report which goes back to the Senate for amendments on the Senate side? Would that open up the report for amendments that would be able to affect the educational aspects? That is the point that I am making. Would the educational components be subjected to alteration?

Mr. LOTT. Mr. Speaker, will the gentleman yield?

Mr. FROST. Mr. Speaker, I yield to the gentleman from Mississippi for the purpose of responding. Does the gentleman from Mississippi agree with that?

Mr. LOTT. Mr. Speaker, it is unfortunate that these two issues are tied together but they are tied together.

Mr. HAWKINS. We agree with that.

Mr. LOTT. If the Members want to get a chance to ban dial-a-porn, this is probably their only chance.

If this goes back to the Senate, it does not start anew. The Senate can accept it, which they have already done in both the conference report and the dial-a-porn language with no problem. If they defeat the previous question, I guess they could add more issues to it but the Senate supports this education bill, the House supports this education bill, the question is are we going to have a ban on dial-a-porn or not that is really binding, or are we going to start a new system of subscriptions for dial-a-porn? That is the fundamental question.

Mr. FROST. Mr. Speaker, it is clear that the gentleman from California [Mr. HAWKINS] is technically correct, that the Senate could reopen the entire matter if we follow the procedure of the gentleman from Mississippi [Mr. LOTT].

I understand that the gentleman from Mississippi is saying, which is that he does not believe the Senate will do that. We in this body however can never predict what the other body will do under their procedures.

Mr. LOTT. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DORNAN] whom I am sure will clear all this up.

Mr. DORNAN of California. Mr. Speaker, I will say this, what I will clear up is that every group across these United States, religious or secular, that is deadly serious and earnest about doing something about the pollution in the public marketplace is going to consider this vote, on the previous question, a vote for or against dial-a-porn.

Mr. Speaker, my bishops, the Catholic bishops, have been all over the map on arms control, economics, and issues which they readily admit are not binding but in their last pastoral on women the press got all obsessed with whether or not women should be ordained but they missed the toughest words in the language of that pastoral letter where the bishops lashed out at sins against women. In all of this pretense that we are trying to walk a fine constitutional line to help save our children from corruption but raise them in an utterly polluted marketplace, we forget about women in general that are used by this vicious form of pornography and we have done nothing about live dial-a-porn, just about the recorded dial-a-porn.

Here is what the bishops talk about when they talk about sins against women: rape, prostitution, adultery, emotional and physical abandonment, pornography, and that includes what we are discussing here, and the trivialization of the talent of women. Such issues cut across religious lines, and they also cut across sexual lines.

Mr. Speaker, we have our ways on our side of the aisle of finding out what goes on in caucuses held by the other side. We know what goes on in the discussions on communism in this hemisphere and on key issues like that; we also find out what is discussed on morality issues. There have been outstanding Members on your side that have gotten up in your caucus and said, "Why are you doing this to yourselves? Why do you want this wrapped around the neck of your party in an election year that you are not trying to cut out dial-a-porn like a cancer out of our society, but you are engaging in all this dancing on the head of a pin?"

This previous question vote no is to try and stop this sin against women, this perversion of the telephone lines of our country, this corruption of the public marketplace where it would otherwise be left to credit cards and assume that we are going to trick children. This is what we discussed for 20 years with putting the words "adults only" on different materials. The theater rating system just does not work.

"Adults only" is like attracting an addict to drugs or a bear to honey. We have failed miserably since the 93rd Congress in its freshman year when the Miller decisions came out on June 21, 1973, from the Supreme Court. That Supreme Court issue has been resolved. Pornography is not constitutionally protected speech, nor is dial-a-porn. We have got probably the most conservative Court that we are ever going to have, far more conservative than that which rendered the decisions in June 1973. Let us do what is right for the public marketplace, for the women, and for all of us and for the families of America and not pretend we are trying to help youth and continue the pollution of American life. Vote "no" on the previous question.

Mr. FROST. Mr. Speaker, for purpose of debate only I yield 3 minutes to the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Speaker, I cannot believe that anyone would be so naive as to believe that those who are fighting pornography, and I think that includes all of us, do not have other opportunities to do it. Why have we been sitting around until we bring before the body a conference report on American education in order to fight pornography? It does not make sense.

The statement has been made that a vote against the previous question will in some way open up the opportunity to fight pornography. If my colleagues vote against the previous question, they are voting against education. I would hope that they believe that. If it reopens all that we have gone through here through the past year in the House to put together an education package, a package that will educate the children of our country, will fight illiteracy and which will put math and science into our schools which will reduce the illiteracy rate of a country that stands 17th among the countries of the world in literacy, this is the time to address education. There are other times when we can join together and fight pornography. We have had that opportunity. We slept through it but we can reopen that opportunity. This is not the only opportunity to fight pornography. This is not the only opportunity to fight pornography. I think we are doing a disservice to the children of this country by adding a nongermane amendment to the education bill on the other side. This is a vicious system of legislating. I would hope that we come to our senses and separate the issues so that we can march down the road to fight pornography, but at this time let us join together and support education.

If this package goes back to the Senate, I cannot promise my colleagues that they will not alter it over there. We have a very balanced formula as between the cities and the coun-

Coats
Coble
Coleman (MO)
Conestog
Conte
Coutter
Craig
Cramer
Dammeyer
Darden
Davis (MI)
DePaulo
DeLay
Derrick
DeWine
Dickinson
DieGueardi
Dorman (ND)

SCHUETTE, DAVIS of Michigan, MFUME, ROSE, ROE, KOLTER, DERRICK, BOLAND, VOLKMER, MICA, GAYDOS, GUARINI, MACKAY, THOMAS A. LUKEN, ROSTENKOWSKI, ESPY, WILLIAMS, RICHARDSON, TRAFICANT, HAMILTON, LEHMAN of California, FLORIO, DeFAZIO, SPRATT, ORTIZ, WYDEN, MURPHY, GRAY of Pennsylvania, WISE, OWENS of Utah, SMITH, of Iowa, NAGLE, JOHNSON of South Dakota, ST GERMAIN, FEIGHAN, STAGGERS, RUSSO, BUS-TAMANTE, JONES of Tennessee, LEWIS of Georgia, TORRICELLI and MAVROULES changed their votes from "yea" to "nay."

Mr. PEASE changed his vote from "yea" to "present."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. LOTT

Mr. LOTT. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Lott: Strike all after the resolving clause and insert in lieu thereof the following:

"That upon the adoption of this resolution it shall be in order to consider the conference report on the bill (H.R. 5) to improve elementary and secondary education, and all points of order against the conference report and against its consideration, except as provided by section 2 of this resolution, are hereby waived, and the conference report shall be considered as having been read when called up for consideration.

"Sec. 2. It shall be in order pursuant to clause 4 of rule XXVIII of the Rules of the House to raise a point of order against section 6101 of the conference report. If, pursuant to such clause, the point of order is sustained and the section is then rejected by a vote of the House, it shall immediately be in order, without intervening motion, for any Member to offer a preferential motion to take from the Speaker's table the bill H.R. 5, together with the Senate amendment thereto, and to recede and concur in the Senate amendment with an amendment which shall consist of the text of that portion of the conference report not rejected together with the text of sec. 7003 of said Senate amendment as a substitute for sec. 6101 of the conference report as rejected by the House, said motion shall be considered as having been read, and all points of order against said motion are hereby waived."

□ 1720

The SPEAKER. The gentleman from Mississippi [Mr. Lott] is recognized for 1 hour.

Mr. LOTT. Mr. Speaker, I see no reason to prolong this debate any further. There is no need to take any longer than a couple minutes.

I would like to urge the adoption of this substitute rule which would provide for the consideration of the ban on dial-a-porn language in the conference report and also, of course, the conference report on H.R. 5, the education bill.

We all know what is involved in the debate. We know what is in the rule.

Mr. FROST. Mr. Speaker, will the gentleman yield?

Mr. LOTT. For purposes of debate only, I yield to the gentleman from Texas.

Mr. FROST. Mr. Speaker, I thank the gentleman for yielding.

We have no requests for time and I do not intend to yield, of course, or ask that any other speakers be recognized. I would only like to make some observations.

I think that is important that we proceed on this matter today, that this be passed today.

I hope that the gentleman is correct, that once this matter goes to the Senate that they will accept it without further amendment, so that the conference report can be passed and sent to the President. I hope the gentleman is correct in his view that the Senate will not further complicate matters.

I also hope and I think it is important that Members understand that there is an element of risk in the strategy being followed by the minority in that should the courts subsequently strike down the Helms amendment as unconstitutional, there will be no fallback language. The language that was contained in the original conference report to dial-a-porn will no longer exist, so that there will be no remedy against dial-a-porn at all should this Helms amendment be struck down by the courts.

Mr. Speaker, I have no further comment.

Mr. LOTT. Mr. Speaker, I would be happy to yield to anyone for purposes of debate only, but I think we have debated this issue at length for the last hour and 5 minutes, so I am ready to move the previous question.

Mr. Speaker, I move the previous question on the amendment in the nature of a substitute and the resolution.

The SPEAKER. The question is on ordering the previous question.

The previous question was ordered.

The SPEAKER. The question is on the amendment in the nature of a substitute offered by the gentleman from Mississippi [Mr. Lott].

The amendment in the nature of a substitute was agreed to.

The SPEAKER. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

Mr. HAWKINS. Mr. Speaker, pursuant to House Resolution 427, I call up the conference report on the bill (H.R. 5) to improve elementary and secondary education, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Pursuant to the rule, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of April 13, 1988.)

POINT OF ORDER

Mr. BLILEY. Mr. Speaker, pursuant to the rule just adopted and clause 4 of rule XXVIII, I make a point of order against section 6101 of the conference report, and ask to be heard on my point of order.

The SPEAKER. The gentleman's point of order is well-taken, the modification of the Senate provision in question is not germane to the bill as passed by the House. The point of order is sustained.

MOTION OFFERED BY MR. BLILEY

Mr. BLILEY. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. BLILEY moves pursuant to clause 4 of rule XXVIII and House Resolution 427 as adopted by the House that the House do now reject section 6101 of the conference report on the bill H.R. 5.

The SPEAKER. The gentleman from Virginia [Mr. BLILEY] will be recognized for 20 minutes and a Member, if opposed, will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. BLILEY].

Mr. BLILEY. Mr. Speaker, we have been over this ground all day and in deference to the time of the Members and in the light of the vote we just had on voting down the ordering of the previous question, I would urge the Members to adopt this motion so that we can get on with the business at hand.

Mr. Speaker, I have no requests for time, and I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Virginia [Mr. BLILEY].

The motion was agreed to.

Mr. HAWKINS. Mr. Speaker, if I might be heard merely for a technical explanation, since the conference report is no longer applicable I would simply like to ask unanimous consent to make the statement of the managers of the conference applicable in this instance. It does not affect in any way the procedure that is being followed, but since the conference report is not before us, I simply would like to have the statement on behalf of the managers of the conference report applicable to the motion that has just been passed. It is only in regard to the education aspect.

Mr. BLILEY. Mr. Speaker, I could not hear the gentleman from California. Will the gentleman please restate his request?

Mr. HAWKINS. Mr. Speaker, let me repeat my statement.

Mr. Speaker, it now appears that the difference between the House and the Senate on H.R. 5 will be disposed of through the approval of the pending motion which was just approved.

This further amendment embodies all the statutory text of the confer-